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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,627	11/08/2001	Joseph G. Capizzi	KCX-316 (15606)	9974

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EXAMINER

HALPERN, MARK

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 07/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/007,627

Applicant(s)

CAPIZZI, JOSEPH G.

Examiner

Mark Halpern

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 June 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 52 and 53 is/are allowed.
- 6) ☒ Claim(s) 32-34, 37-40, 42-44, 47-49, 51 is/are rejected.
- 7) ☒ Claim(s) 35, 36, 45 and 46 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \*   c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3/11/03.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

- 1) Acknowledgement is made of Amendment received 6/6/2003. Applicant cancels claims 1-31, and introduces new claims 32-53, for consideration.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2) Claim 51 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 51, line 6, recites the phrase "to about than about". It should be replaced with – to about -.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 3) Claims 32-34, 37-40, 42-44, 47-49, are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins (4,184,914) in view of Brown (4,912,948).

Claims 32-34, 37, 39-40, 42-44, 47, 49: Jenkins discloses formation of a paper web from cellulosic pulp on a continuously moving wire mesh in a papermaking machine. Said formed web progresses to be treated with a foam solution. Further processing includes drying of the web (Jenkins, col. 1, line 5 to col. 2, line 20). The basis weight of the formed paper product is 70 grams per square meter (Jenkins, col. 5, line 35). The application of foam occurs at the dry end (Jenkins, col. 3, lines 17-25) where the moisture content of the web is 5 percent (Jenkins, col. 6, lines 36-60); said moisture content reads on the claimed web solids consistency less than about 95 percent. Jenkins discloses various types of foam applicators and methods of foam application, these include a rolling nip, air knife or Meyer rod (Jenkins, col. 4, line 14, to col. 5, line 19). Jenkins fails to disclose foam being drawn web with a vacuum slot. Brown discloses foam application to a paper formed web using a vacuum guide (Brown, col. 3, lines 9-40, and Figures 1-7). It would have been obvious, to one skilled in the art at the time the invention was made, to combine the teachings of Jenkins and Brown, because such a combination would provide an improved application control of applying the foam to a moving web in the design of Jenkins, as disclosed by Brown (Abstract).

Claims 38, 48: application of foam at a nip is disclosed (Jenkins, col. 4, lines 14-25, col. 5, lines 7-17).

4) Claims 41, 50, are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins in view of Brown and further in view of Edwards (6,511,579). Jenkins in view of Brown is applied as above for claims 40, 42, Jenkins in view of Brown fail to disclose formed web drying accomplished by at least one through-dryer. Edwards discloses the

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formation of web utilizing foam means wherein the drying is by means of through-air drying (Edwards, col. 6, lines 14-21). It would have been obvious, to one skilled in the art at the time the invention was made, to combine the teachings of Jenkins in view of Brown and Edwards, because such a combination would provide means of producing paper products of improved softness in the design of Jenkins, as disclosed by Edwards (Abstract).

***Allowable Subject Matter***

- 5) Claims 52-53, are allowed.
- 6) Claim 51 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.
- 7) Claims 35-36, 45-46, objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for indication of allowable subject matter is that the cited prior art does not show a method of incorporating a liquid-based composition into a tissue product having a basis weight less than about 120 grams per square meter, wherein the foam is applied to the said web while said web has a solid consistency claimed (claims 35, 45, 51, 52, 53).

***Response to Amendment***

- 8) Claims 1-3, 7-9, 11-14, 18-21, 23-25, 29, 31, rejection under 35 U.S.C. 102(b) as being anticipated by Jenkins, is withdrawn in view of cancelled claims.
- 9) Claims 6, 17, 28, rejection under 35 U.S.C. 103(a) as being unpatentable over Jenkins in view of Brown, is withdrawn in view of cancelled claims.
- 10) Claims 10, 22, 30, rejection under 35 U.S.C. 103(a) as being unpatentable over Jenkins in view of Edwards, is withdrawn in view of cancelled claims.

***Conclusion***

- 11) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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12) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Halpern whose telephone number is 703-305-4522. The examiner can normally be reached on Mon-Fri, (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7718 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

MH

Mark Halpern  
Patent Examiner  
Art Unit 1731

June 26, 2003

  
STEVEN P. GRIFFIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700